

**1999 No. 1811**

**EDUCATION, ENGLAND AND WALES**

**WALES**

**The Education (School Performance and Unauthorised  
Absence Targets) (Wales) Regulations 1999**

<i>Made</i> - - - -	<i>24th June 1999</i>
<i>Laid before Parliament</i>	<i>29th June 1999</i>
<i>Coming into force</i>	<i>1st September 1999</i>

In exercise of the powers conferred on the Secretary of State by sections 19, 54(3) and 54(4) of the Education Act 1997(a) and sections 63, 138(7) and (8) of the School Standards and Framework Act 1998(b), the Secretary of State for Wales hereby makes the following Regulations:

**Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the Education (School Performance and Unauthorised Absence Targets) (Wales) Regulations 1999, and shall come into force on 1st September 1999.

(2) These Regulations apply only in relation to maintained schools in Wales.

**Revocation**

**2.** The Education (School Performance Targets) (Wales) Regulations 1998(c) are hereby revoked.

**Interpretation**

**3.**—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996(d);

“the 1997 Act” means the Education Act 1997;

“the 1998 Act” means the School Standards and Framework Act 1998;

“to achieve the core subject indicator” means—

(a) in relation to second key stage pupils, that those pupils are to be assessed as having achieved level 4 or above in NC tests for that key stage in English or Welsh (other than Welsh second language) and in both mathematics and science,

(b) in relation to third key stage pupils, that those pupils are to be assessed as having achieved level 5 or above in NC tests for that key stage in English or Welsh (other than Welsh second language) and in both mathematics and science, and

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(a) 1997 c. 44; see section 56(1) for the meaning of “regulations”. Section 19 is prospectively amended by paragraph 213 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31).

(b) 1998 c. 31.

(c) S.I. 1998/2196.

(d) 1996 c. 56.

- (c) in relation to pupils who will attain the age of 16 years during the school year in which they take the relevant GCSE examinations, that those pupils are to have achieved any grade from A\* to C in a GCSE examination in English or Welsh (other than Welsh second language) and in both a GCSE examination in mathematics and a GCSE examination in science;

“the Assembly” means the National Assembly for Wales**(a)**;

“CoEA” means Certificate of Educational Achievement;

“core subjects” means the core subjects within the meaning of section 354(1) of the 1996 Act;

“following school year” means the school year immediately following the school year in question;

“GCSE” means General Certificate of Secondary Education, and “GCSE examination” means an examination, the course leading to which is a full GCSE course of study;

“GCSE short course” means a GCSE course designed to cover a proportion only (being not less than half) of the corresponding full GCSE course of study, and to which the same grading standards are applied, and “GCSE short course examination” means an examination, the course leading to which is a GCSE short course;

“GNVQ” means General National Vocational Qualification;

“level 4” means level 4 of the National Curriculum level scale as determined by the results of NC tests;

“level 5” means level 5 of the National Curriculum level scale as determined by the results of NC tests;

“maintained school” means in the period ending immediately before 1st September 1999, a county, voluntary or maintained special school or a grant-maintained or grant-maintained special school and, in relation to any time on or after 1st September 1999, means a community, foundation or voluntary school or a community special or foundation special school;

“NC tests” means National Curriculum tests administered to pupils for the purpose of assessing the level of attainment which they have achieved in English, Welsh, science or mathematics, being tests laid down in provisions made by the Secretary of State or the Assembly under the appropriate order made under section 356(2) of the 1996 Act in force when those tests are administered**(b)**;

“NVQ” means National Vocational Qualification;

“performance targets” means the targets which schools’ governing bodies are required to set by virtue of regulations 4, 5 and 6;

“previous school year” means the school year immediately preceding the school year in question;

“pupils’ attainment results” has the meaning specified in regulation 9(3);

“relevant school year” in relation to a school means the school year in relation to which the school’s annual report is published;

“school’s annual report” means the report to parents which the governing body of a school are required to prepare and publish for every school year by virtue of the school’s Articles of Government or of section 42 of the 1998 Act**(c)**;

“Schools’ Census enumeration date” means the date by reference to which the Secretary of State or the Assembly annually requires information to be provided relating to maintained schools pursuant to section 29(1) of the 1996 Act;

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**(a)** The National Assembly for Wales was established by section 1 of the Government of Wales Act 1998 (c. 38). All the functions of the Secretary of State relevant to these Regulations are transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) with effect from 1st July 1999. Accordingly, in relation to Wales, references to the Secretary of State in the relevant sections of and Schedules to the Education Act 1996, the Education Act 1997 and the School Standards and Framework Act 1998 are to be construed as being, or including, a reference to the Assembly *see* section 43 of the Government of Wales Act 1998.

**(b)** The appropriate orders currently in force are the Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 2) (Wales) Order 1997 (S.I. 1997/2009), as amended by S.I. 1998/1977, and the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (Wales) Order 1997 (S.I. 1997/2010), as amended by S.I. 1998/1976.

**(c)** Section 42 of the School Standards and Framework Act 1998 (c. 31) is not yet in force.

“school year” means a period of twelve months beginning on 1st September;

“school year in question” in relation to the setting of any target means the school year in which that target is being set;

“school year next but one” means the school year beginning 2 years after the beginning of the school year in question;

“school year next but two” means the school year beginning 3 years after the beginning of the school year in question;

“second key stage pupils” means pupils who are in the second key stage referred to in section 355(1)(b) of the 1996 Act;

“third key stage pupils” means pupils who are in the third key stage referred to in section 355(1)(c) of the 1996 Act;

“unauthorised absence targets” means the targets which schools’ governing bodies are required to set by virtue of regulation 7;

“vocational qualification” means—

- (a) a Part One GNVQ,
- (b) an Intermediate GNVQ,
- (c) a Foundation GNVQ,
- (d) a GNVQ Language Unit, or
- (e) an NVQ

approved under section 400 of the 1996 Act or section 37 of the 1997 Act.

(2) Any reference in these regulations to a pupil achieving or being awarded—

- (a) a grade in a GCSE examination,
- (b) a vocational qualification, or
- (c) a grade in a GCSE short course examination,

by the end of any school year, shall be construed for the purposes of these regulations as a reference to that pupil achieving or being awarded that grade or qualification in the school year in which he—

- (i) takes that examination, or
- (ii) (as the case may be) completes the course leading to the award of that qualification,

and irrespective of whether the decision to award the grade or qualification is made in a later school year.

### **Performance targets for pupils in the second key stage**

4.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the second key stage.

(2) The governing body of a school to which this regulation applies shall, by no later than 31st December in every school year, set the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in NC tests of pupils who will be in the final year of the second key stage when those tests are administered.

(3) The targets referred to in paragraph (2) are—

- (a) final targets in connection with the performance of the relevant group of second key stage pupils in NC tests to be administered at or near the end of the following school year, being the reviewed targets set in the previous school year but revised if the governing body deem it necessary to do so;
- (b) reviewed targets in NC tests to be administered at or near the end of the school year next but one, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and
- (c) provisional targets in NC tests to be administered at or near the end of the school year next but two.

- (4) The achievements referred to in paragraph (2) are–
- (a) for each of the core subjects, the percentage of pupils to achieve level 4 or above; and
  - (b) either–
    - (i) the percentage of girls and the percentage of boys respectively to achieve the core subject indicator; or
    - (ii) the difference between the percentage of girls and the percentage of boys respectively to achieve the core subject indicator.
- (5) In paragraph (3)(a) above “the relevant group of second key stage pupils”, in relation to a school and to any school year means all persons who the governing body anticipate will, in the following school year–
- (a) be registered pupils at that school; and
  - (b) be in the final year of the second key stage.

### **Performance targets for pupils in the third key stage**

**5.—**(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the third key stage.

(2) The governing body of a school to which this regulation applies shall, by no later than 31st December in every school year, set the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in NC tests of pupils who will be in the final year of the third key stage when those tests are administered.

- (3) The targets referred to in paragraph (2) are–
- (a) final targets in connection with the performance of the relevant group of third key stage pupils in NC tests to be administered at or near the end of the following school year, being the reviewed targets set in the previous school year but revised if the governing body deem it necessary to do so;
  - (b) reviewed targets in NC tests to be administered at or near the end of the school year next but one, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and
  - (c) provisional targets in NC tests to be administered at or near the end of the school year next but two.
- (4) The achievements referred to in paragraph (2) are–
- (a) for each of the core subjects, the percentage of pupils to achieve level 5 or above; and
  - (b) either–
    - (i) the percentage of girls and the percentage of boys respectively to achieve the core subject indicator; or
    - (ii) the difference between the percentage of girls and the percentage of boys respectively to achieve the core subject indicator.

(5) In paragraph (3)(a) above “the relevant group of third key stage pupils”, in relation to a school and to any school year means all persons who the governing body anticipate will, in the following school year–

- (a) be registered pupils at that school; and
- (b) be in the final year of the third key stage.

### **Performance Targets for pupils who will attain the age of 16 years**

**6.—**(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils who have attained the age of 15 years.

(2) The governing body of a school to which this regulation applies shall, by no later than 31st December in every school year, set the targets specified in paragraph (3) for each of the achievements specified in paragraph (4) in connection with the performance in examinations of pupils who will attain the age of 16 years during the school year in which they take those examinations.

- (3) The targets referred to in paragraph (2) are–
- (a) final targets in connection with the performance of the relevant group of pupils who will attain the age of 16 years, in examinations to be administered at or near the end of the following school year, being the reviewed targets set in the previous school year but revised if the governing body deem it necessary to do so;
  - (b) reviewed targets in examinations to be administered at or near the end of the school year next but one, being the provisional targets set in the previous school year but revised if the governing body deem it necessary to do so; and
  - (c) provisional targets in examinations to be administered at or near the end of the school year next but two.
- (4) The achievements referred to in paragraph (2) are–
- (a) the percentage of pupils to achieve the core subject indicator;
  - (b) either–
    - (i) the percentage of girls and the percentage of boys respectively to achieve the core subject indicator; or
    - (ii) the difference between the percentage of girls and the percentage of boys respectively to achieve the core subject indicator;
  - (c) the percentage of pupils to achieve any grade from A\* to C in five or more subjects in GCSE examinations;
  - (d) the percentage of pupils to achieve any grade from A\* to G in five or more subjects in GCSE examinations; and
  - (e) the percentage of pupils to leave school without achieving either any grade from A\* to G in GCSE examinations or passing any CoEA examinations.
- (5) In paragraph (4)–
- (a) references to pupils achieving particular grades in GCSE examinations shall be construed for the purposes of those provisions so as to include references to pupils achieving corresponding awards in an equivalent number of vocational qualifications or GCSE short course examinations; and
  - (b) references to pupils leaving school do not include pupils transferring to another educational institution on a full-time basis.
- (6) Schedule 1 shall have effect for determining, for the purposes only of this regulation and regulation 9, questions as to–
- (a) which vocational qualification award corresponds to which GCSE examination grade;
  - (b) the equivalency between GCSE examination results and vocational qualifications; and
  - (c) the equivalency between GCSE examination results and GCSE short course examination results.
- (7) In paragraph (3)(a) above “the relevant group of pupils who will attain the age of 16 years” in relation to a school and to any school year, means all persons–
- (a) who the governing body anticipate will be registered pupils at that school on the Schools’ Census enumeration date in the following school year, and
  - (b) who will attain the age of 16 years during that following school year.

### **Unauthorised absence targets**

7.—(1) This regulation applies to every school which provides secondary education.

(2) The governing body of a school to which this regulation applies shall, by no later than 31st December in every school year, set the targets specified in paragraph (3) for the level to which the unauthorised absence rate on the part of relevant day pupils at the school is to be reduced.

(3) The targets referred to in paragraph (2) are–

- (a) a final target for the following school year, being the reviewed target set in the previous school year but revised if the governing body deem it necessary to do so;

- (b) a reviewed target for the school year next but one being the provisional target set in the previous school year but revised if the governing body deem it necessary to do so; and
  - (c) a provisional target for the school year next but two.
- (4) In this regulation and in regulation 9–
- (a) “secondary education” has the meaning given to it in section 2(2) of the 1996 Act;
  - (b) “the unauthorised absence rate” in relation to a school and to a school year means the total number of unauthorised absences in the applicable period during that year, expressed as a percentage of the total number of possible attendances in that period;
  - (c) “unauthorised absence” in relation to a school means an occasion on which a relevant day pupil is registered as absent from the school without authority pursuant to the Education (Pupil Registration) Regulations 1995(a);
  - (d) “the applicable period” in relation to a school year, means the period starting with the beginning of that year and finishing with the end of the school day falling on the Friday before the last Monday in May in that year;
  - (e) “the total number of possible attendances” in relation to a school and to a school year, means the number produced by multiplying the number of relevant day pupils at that school in that year by the number of school sessions in the applicable period in that year; and
  - (f) “relevant day pupil” in relation to a school and to a school year means a pupil who the governing body anticipate will be registered at that school on the Schools’ Census enumeration date in that year and who is not–
    - (i) a boarder; or
    - (ii) a pupil who, before the beginning of that school year, either has not attained the age of 10 years and 6 months or has attained the age of 16 years.

#### **Prohibition of revision of final targets**

**8.** A final performance target or a final unauthorised absence target may not be modified after it has been set.

#### **Publication of information**

**9.**—(1) Subject to paragraph (2) the governing body of every school to which regulation 4, 5, 6 or 7 applies shall publish with the school’s annual report for every school year the information about–

- (a) pupils’ attainment results,
- (b) performance targets,
- (c) the unauthorised absence rate, and
- (d) unauthorised absence targets,

specified in Schedule 2.

(2) In relation to any school to which regulation 4, 5 or 6 applies, paragraph (1) shall not require the publication of any information–

- (a) about the performance targets referred to in those regulations in relation to–
  - (i) the relevant group of second key stage pupils (as defined in regulation 4(5)),
  - (ii) the relevant group of third key stage pupils (as defined in regulation 5(5)), or
  - (iii) the relevant group of pupils who will attain the age of 16 years (as defined in regulation 6(7)),

where that group, at the time when the governing body’s duty to set such targets for that year arose, consisted of ten or fewer persons; and

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(a) S.I. 1995/2089, as amended by S.I. 1997/2624.

- (b) about pupils' attainment results in any school year in relation to any group of pupils—
- (i) at or near the end of the final year of the second key stage,
  - (ii) at or near the end of the final year of the third key stage, or
  - (iii) who attained the age of 16 years,
- during the school year in question where that group consisted of ten or fewer persons.
- (3) In this Regulation "pupils' attainment results" means—
- (a) in relation to pupils at or near the end of the final year of the second key stage in any school year at a school to which regulation 4 applies—
    - (i) for each of the core subjects, the percentage who achieved level 4 or above in NC tests, and
    - (ii) either the percentage of girls and the percentage of boys respectively who achieved the core subject indicator, or the difference between the percentage of girls and the percentage of boys respectively who achieved the core subject indicator; and
  - (b) in relation to pupils at or near the end of the final year of the third key stage in any school year at a school to which regulation 5 applies—
    - (i) for each of the core subjects, the percentage who achieved level 5 or above in NC tests, and
    - (ii) either the percentage of girls and the percentage of boys respectively who achieved the core subject indicator or the difference between the percentage of girls and the percentage of boys respectively who achieved the core subject indicator; and
  - (c) in relation to pupils who attained the age of 16 years in any school year at a school to which regulation 6 applies—
    - (i) the percentage who, by the end of that year, achieved the core subject indicator;
    - (ii) either the percentage of girls and the percentage of boys respectively who, by the end of that year, achieved the core subject indicator or the difference between the percentage of girls and the percentage of boys respectively who, by the end of that year achieved the core subject indicator;
    - (iii) the percentage who, by the end of that year, achieved any grade from A\* to C in five or more subjects in GCSE examinations;
    - (iv) the percentage who, by the end of that year, achieved any grade from A\* to G in five or more subjects in GCSE examinations; and
    - (v) the percentage who, by the end of that year, will have left the school without achieving either any grade from A\* to G in GCSE examinations or passing any CoEA examinations.
- (4) In paragraph (3)(c)
- (a) references to pupils achieving particular grades in GCSE examinations shall be construed for the purposes of those provisions so as to include references to pupils achieving corresponding awards in an equivalent number of vocational qualifications or GCSE short course examinations; and
  - (b) references to pupils who have left the school do not include pupils who have transferred to another educational institution on a full-time basis.
- (5) Paragraph (6) of regulation 6 applies for the purposes of this regulation as it applies for the purposes of regulation 6.
- (6) For the purposes of this regulation "pupil" in relation to a school and a school year, means a person who was registered as a pupil at that school on the Schools' Census enumeration date in that year.

Signed by authority of the Secretary of State for Wales

24th June 1999

*Jon Owen Jones*  
Parliamentary Under Secretary of State,  
Welsh Office

## SCHEDULE 1

(Regulations 6 and 9)

(Supplementary provisions about performance targets and attainment results in respect of GCSE examinations)

1.—(1) For the purposes of regulations 6 and 9 questions as to—

- (a) which vocational qualification award corresponds to which GCSE examination grade,
- (b) the equivalency between GCSE examination results and vocational qualifications, and
- (c) the equivalency between GCSE examination results and GCSE short course examination results,

shall be determined in accordance with sub-paragraphs (2) to (8).

(2) A full Intermediate GNVQ, or an NVQ at level 2, shall be treated as equivalent to grade from A\* to C in four GCSE subjects.

(3) A full Foundation GNVQ, or an NVQ at level 1, shall be treated as equivalent to grade from D to G in four GCSE subjects.

(4) A Part One GNVQ (Intermediate level) shall be treated as equivalent to grade from A\* to C in two GCSE subjects.

(5) A Part One GNVQ (Foundation level) shall be treated as equivalent to grade from D to G in two GCSE subjects.

(6) A GNVQ Language Unit (Intermediate level) shall be treated as equivalent to grade A\* in half a GCSE subject.

(7) A GNVQ Language Unit (Foundation level) shall be treated as equivalent to grade D in half a GCSE subject.

(8) A grade in an examination relating to a GCSE short course shall be treated as equivalent to that grade in half a GCSE subject.

2. For the purposes of setting the targets specified in regulation 6, any reference in this Schedule to the achievement or award of—

- (a) a grade in a GCSE examination,
- (b) a vocational qualification, or
- (c) a grade in a GCSE short course examination,

shall be construed as if it were a reference to the award or achievement of a grade or qualification by the end of the school year for which such targets are required to be set by virtue of that regulation.

## SCHEDULE 2

(Regulation 9)

(Information about pupils' attainment results, performance targets, unauthorised absence rates and targets for unauthorised absences to be published in annual reports)

1. Where a school's annual report in relation to the relevant school year is published after the end of that year, the school's annual report in relation to the relevant school year shall contain the following information—

- (a) pupils' attainment results in the relevant school year;
- (b) the performance targets specified in paragraph 2;
- (c) the school's unauthorised absence rate in the relevant school year;
- (d) the unauthorised absence targets specified in paragraph 2; and
- (e) a statement setting out the extent to which—
  - (i) pupils' attainment results, and
  - (ii) the school's unauthorised absence rate,

in the relevant school year met the corresponding final targets set for the same year.

2. The targets referred to in paragraph 1(b) and (d) are–
  - (a) all final targets set for the relevant school year;
  - (b) all final targets set for the school year immediately following the relevant school year;
  - (c) all reviewed targets set for the school year next but one;
  - (d) all provisional targets set for the school year next but two.
  
3. Where a school’s annual report in relation to the relevant school year is published in the course of that year, the school’s annual report in relation to the relevant school year shall contain the following information–
  - (a) pupils’ attainment results in the school year immediately preceding the relevant school year;
  - (b) performance targets as specified in paragraph 4;
  - (c) the school’s unauthorised absence rate in the school year immediately preceding the relevant school year;
  - (d) the unauthorised absence targets specified in paragraph 4; and
  - (e) a statement setting out the extent to which–
    - (i) pupils’ attainment results; and
    - (ii) the school’s unauthorised absence rate,in the school year immediately preceding the relevant school year met the corresponding final targets set for the same year.
  
4. The targets referred to in paragraph 3(b) and (d) are–
  - (a) all final targets set for the school year immediately preceding the relevant school year; and
  - (b) all targets specified in paragraph 2 of this Schedule.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made under section 19 of the Education Act 1997 and section 63 of the School Standards and Framework Act 1998. They come into force on 1st September 1999 and replace the Education (School Performance Targets) (Wales) Regulations 1998. The main change is to require the governing body of every maintained school providing secondary education to set final, reviewed and provisional targets in respect of pupils' unauthorised absence from school for 1, 2 and 3 years ahead respectively (regulation 7). Information concerning these targets and the actual unauthorised absence rate will have to be published every year with the governing body's annual report.

The governing bodies of maintained schools providing education suitable for pupils in the second key stage, third key stage, or pupils aged 15 years will, as before, be required to set final, reviewed and provisional targets for 1, 2 and 3 years ahead respectively in respect of the performance of pupils in certain tests and public examinations (or vocational qualifications) (regulations 4–6). Apart from some presentational changes there are two minor changes. First, the school year for vocational qualifications has been redefined to start on 1st September instead of 1st August. Secondly, schools are now offered an alternative way of presenting targets and attainment results for the respective performance of girls and boys. Information concerning performance targets and pupils attainment results will have to be published every year with the governing body's annual report as before.

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